

### **REMARKS**

Claims 1, 4-10 and 12-16 are currently pending in the application. The application, including the claims, has not been amended in response to the currently pending Office Action. Therefore, no new matter has been added as a result of the Request for Reconsideration.

### **Telephone Interview**

The Undersigned and Examiner Cameron Sadaat conducted a telephone interview on January 17, 2007 related to the present application and, specifically, the below-described rejections presented by the Examiner in a pending Office Action. Below is a summary of the arguments presented to the Examiner during the telephone interview for further consideration by the Examiner. The Undersigned and Applicants would like to thank the Examiner for the courtesies extended during the telephone interview.

### **Claim Rejections-35 U.S.C. § 103**

The Examiner rejected claims 1, 4-6, 8, 10 and 12-15 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,974,857 (Beall) in view of U.S. Patent No. 6,283,872 (Lichodziejewski). The Examiner argues that Beall discloses each and every element of the above-listed claims with the exception of explicitly disclosing the audible recording selected is of a derisive character when the quality of the at least one activity associated with the game is unfavorable. Examiner further argues that Lichodziejewski teaches an electronic bowling game, wherein audible recordings are played based on player performance and wherein the audible recording is of a derisive character that talks to the player when the quality of the player's game performance is unfavorable and it would have been obvious to one having ordinary skill in the art to modify the audible recordings described in Beall in view of Lichodziejewski. Applicants respectfully traverse this rejection.

Referring to Figs. 1-4, Beall is directed to an electronic dart game that provides audible scoring and set up information for a visually impaired or blind player (See Abstract & Col. 2, lines 7-11). The electronic dart game includes a dartboard 11 mounted to an upright cabinet 12 and a roll out mat 43 having a physically perceptible throwing line 44 mounted within the cabinet 12. A control panel 40 is mounted to a front of the cabinet 12. The dart game is

controlled by a microprocessor 22 that is in communication with a target head switch matrix 25. The matrix 25 is positioned behind the dartboard 11 to sense dart 13 impacts. A speech memory 39, a random access memory (RAM) 28 for keeping score of the game and a speaker 32 to provide audible indications to the visually impaired or blind users are each in communication with the microprocessor 22.

In operation, the roll out mat 43 is pulled out of the cabinet 12 and positioned such that the visually impaired or blind player is able to consistently, physically judge the distance from the dartboard 11 by stepping on the throwing line 44. Manipulation of the control panel 40 permits the player to select a game and the microprocessor 22 prepares and keeps track of a game score. As the player throws the darts 13 at the dartboard 11 and points are scored, the target head switch matrix 25 relays the scores to the microprocessor 22. The microprocessor 22 indicates the scoring information, setup information and general progress of the game to the sight impaired or blind player utilizing the speech memory 39 and the speaker 32. Utilization of the dartboard game of Beall permits the visually impaired or blind player to play darts without being accompanied by a seeing companion.

Referring to figs. 1, 4, 8 and 11, Lichodziejewski is directed to a toy bowling game 10 including a plurality of pins 12a-12f, a base 14 and a bowling ball 16. During game play, the game may taunt a user if the pins are not struck during play or the user takes an inordinately long amount of time to take their turn (Col. 6, line 14 – Col. 8, line 60).

Referring to Figs. 1-4, the present application is directed to an electronically-scored dart game 10 and a method of playing the electronically-scored game wherein unfavorable play is heckled by the game or negative or derisive sound recordings are played as a result of unfavorable game play. The electronically-scored dart game 10 includes an electronic controller 120 and at least one sensor 110 operatively connected to the controller 120. The at least one sensor 110 is adapted to detect at least one activity associated with the game and to generate a signal. A memory 170 stores information corresponding to a plurality of audible recordings and is operatively connected to the controller 120. At least one of the plurality of audible recordings is of a derisive character. A sound generator 180 is operatively connected with the controller 120 and a speaker 184 is operatively connected to the sound generator 180. When the controller 120 detects an activity associated with the game from a signal from the sensor 110, one of the

audible recordings is selected and played by the sound generator 180 through the speaker 184. The audible recording played by the sound generator 180 is the derisive audible recording when the quality of the activity of the game is unfavorable. For example, if a dart misses its expected target, poor scores are recorded in a single round, the player “busts” in a certain game or a player takes too much time to throw a dart, the electronically-scored dart game 10 may play the derisive audible recording to heckle the player.

Claim 1 is directed to an electronically-scored game and recites, *inter alia*:

- an electronic controller;
- at least one sensor operatively connected with the controller, the at least one sensor adapted to detect at least one activity associated with the game and to generate a signal;
- a memory storing information corresponding to a plurality of audible recordings, the memory being operatively connected with the controller, at least one of the plurality of audible recordings being of a derisive character;
- a sound generator operatively connected with the controller; and
- a speaker operatively connected with the sound generator, whereby upon detection of the at least one activity associated with the game, the signal from the sensor activates the controller to cause at least one of the plurality of audible recordings to be selected and played by the sound generator through the speaker, the audible recording played by the sound generator being the derisive audible recording when the quality of the at least one activity of the game is unfavorable.

Claim 5 includes similar features as claim 1 and also includes the feature that the at least one of the plurality of audible recordings selected being of a derisive character when the triggering event reflects an undesirable quality of play.

Claim 12 is directed to a method of playing an electronically scored dart game and recited, *inter alia*, as follows:

- impacting the dart board with the at least one dart;
- sensing the position of the impact on the dartboard with the sensor;
- generating the signal from the sensor to the controller;
- activating the controller upon occurrence of a triggering event to select at least one audible recording from the memory, which

takes into account a quality of the impact depending upon the electronically-scored dart game being played; and

activating the sound generator to play the audible recording of the derisive character through the speaker when the quality of the impact is unfavorable.

When making a rejection under 35 U.S.C. § 103, the Examiner has the burden of establishing a *prima facie* case of obviousness. The Examiner satisfies this burden only by showing 1) some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify or combine the references, 2) a reasonable expectation of success, and 3) the prior art references must teach or suggest all of the claim limitations (MPEP 706.02(J)). The teachings or suggestion to make the claimed combination and reasonable expectation of success must be found in the prior art and not from the Applicant's disclosure (MPEP 706.02(J)). Further, the mere fact that the prior art could be modified in the manner proposed by the Examiner does not make the modification obvious unless the prior art suggests the desirability of the modification. Ex parte Dussaud, 7 U.S.P.Q. 2d 1818, 1820 (PTO Bd. App. & Int. 1988).

Applicants respectfully submit that the Examiner has not established a *prima facie* case of obviousness and, therefore, claim 1 is patentable over the proposed combination of Beall in view of Lichodziejewski. Specifically, as was described above, Beall is directed to an electronic dart game that is specifically adapted for use by sight-impaired or blind dart players including a roll out mat to consistently position the sight-impaired or blind player relative to the dart board and audible cues for the sight-impaired player to keep track of game play for blind or sight-impaired players who wish to play the game without the aid of a non-sight-impaired helper. Applicants respectfully submit that there is no motivation for one having ordinary skill in the art to modify the dartboard of Beall in view of Lichodziejewski to include derisive audible recordings, because Beall teaches away from such a modification. Specifically, one having ordinary skill in the art would not modify Beall in view of Lichodziejewski to include derisive audible recordings that are played by a sound generator when the quality of dart play is unfavorable, as is claimed in claim 1, in order to heckle a blind or sight-impaired dart player.

One having ordinary skill in the art would realize that heckling of a blind or sight-impaired individual for unfavorable game play would be inappropriate and offensive.

In addition, even if the electronic dart game of Beall is, at times, played by able-bodied players, one having ordinary skill in the art would not modify the electronic dart game of Beall to include audible recordings of a derisive character because the general aim of Beall is to provide an electronic dart game for sight-impaired or blind players. Accordingly, even if the game is played by able-bodied players for certain periods, the focus of Beall is directed to an electronic dart game for sight-impaired and blind players and one having ordinary skill in the art would realize that when the electronic dart game is played by the sight-impaired and blind players, the heckling is inappropriate. Applicants respectfully submit that playing a derisive or heckling audible recording when game play is unfavorable, as is claimed in claims 1, 5 and 12, would be completely contrary to the teachings of Beall of an electronic dart game adapted for use by sight-impaired and blind players. Based upon the above, Applicants respectfully request that the Examiner reconsider and withdraw any rejection of claims 1, 5 and 12 based upon unpatentability over a combination of Beall in view of Lichodziejewski.

Claims 4, 6, 8, 10 and 13-15 are dependent upon claims 1, 5 or 12. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw any rejection of claims 4, 6, 8, 10 and 13-15 based upon unpatentability over Beall in view of Lichodziejewski based upon their dependence upon one of claims 1, 5 or 12 for the above-listed reasons.

The Examiner further rejected claim 9 as being unpatentable over Beall in view of Lichodziejewski and further in view of U.S. Patent No. 5,642,886 (Yancey). The Examiner argues that Beall and Lichodziejewski disclose all of the claimed subject matter of claim 9 with the exception of explicitly disclosing the feature of providing a game level difficulty input switch. The Examiner further argues that Yancey teaches an electronic dart board where a user may select a difficulty level and it would have been obvious to one having ordinary skill in the art to modify the audible game set up mode described in Beall by allowing a user to select a game difficulty level in order to adjust the level of play according to a user's skill level. Applicants respectfully traverse this rejection.

Yancey is directed to a method of playing a simulated golf game using a dart and a dart board and includes a feature that allows a user to select a difficulty level to adjust the level of play (Col. 6, line 66 – Col. 7, line 3).

Claim 9 is dependent upon claim 5. Claim 5 includes the element of an audible recording of a derisive character being selected and played when a triggering event of a dart game reflects an undesirable quality of play. Applicants respectfully submit that one having ordinary skill in the art would not modify the electronic dart game of Beall in view of Lichodziejewski and further in view of Yancey to include an audible recording of a derisive character played when a triggering event reflects an undesirable quality of play, as is claimed in claim 5. As was described above, one having ordinary skill in the art would realize that modifying the electronic dart game of Beall, which is directed to providing a dart game for blind or sight-impaired players, would be inappropriate and offensive. The addition of Yancey to the combination of Beall in view of Lichodziejewski does not alter the motivation of one having ordinary skill in the art to combine Beall in view of Lichodziejewski. Based upon the above, Applicants respectfully request that the Examiner reconsider and withdraw any rejection of claim 9 based upon unpatentability over Beall in view of Lichodziejewski and further in view of Yancey based upon its dependence upon claim 5.

The Examiner further rejected claims 7 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Beall in view of Lichodziejewski and further in view of U.S. Patent No. 5,971,397 (Miguel). The Examiner argues that a combination of Beall and Lichodziejewski discloses all of the claimed subject matter of claims 7 and 16 with the exception of explicitly disclosing an on/off switch to enable and disable playing of the at least one of the plurality of audible recordings. The Examiner further argues that Miguel teaches an audible electronic dart board comprising volume control and it would have been obvious to one having ordinary skill in the art to modify the audio control described in Miguel by providing volume control in order to enable, disable or adjust the volume to a user's desired level. Applicants respectfully traverse this rejection.

Miguel is directed to an automated electronic dart game that includes volume control.

Claim 7 is dependent upon claim 5 and claim 16 is dependent upon claim 12. Claim 5 includes the feature that at least one of a plurality of audible recordings selected is of a derisive character when a triggering event reflects an undesirable quality of play. Claim 12 includes a method step of activating a sound generator to play an audible recording of a derisive character through a speaker when a quality of impact of a dart on a dart board is unfavorable.

Applicants respectfully submit that one having ordinary skill in the art would not modify Beall in view of Lichodziejewski and further in view of Miguel to include the above-listed elements of claims 5 and 12. Specifically, Applicants respectfully submit that one having ordinary skill in the art would not modify the electronically-scored dart game for blind or sight-impaired persons of Beall to include derisive or heckling audible recordings to deride or heckle the dart play of the blind or sight-impaired dart player. Based upon the above, Applicants respectfully request that the Examiner reconsider and withdraw any rejection of claims 7 and 16 based upon unpatentability of Beall in view of Lichodziejewski and further in view of Miguel based at least upon their dependence upon claims 5 and 12, respectively.

### **CONCLUSION**

In view of the foregoing Request for Reconsideration and remarks, Applicants respectfully submit that the present application, including claims 1, 4-10 and 12-16 is in condition for allowance and such action is respectfully requested.

Respectfully submitted,

**Gary Giegerich, et al.**

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(Date)

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